

REMARKS

In the 15 November 2007 *Office Action*, Claims 1-24 are pending in this application, and all pending claims are rejected. Applicant thanks the Examiner with appreciation for the careful consideration and examination. No new matter is believed introduced by this submission.

Applicant files this response solely to facilitate prosecution. As such, Applicant reserves the right to pursue claims of broader or similar scope as originally filed in a continuation application or other application after allowance of the present application. Applicant does not concede that the current or past rejections are correct and reserve the right to challenge such rejections later in prosecution or on appeal. Accordingly, any amendment, argument, or claim cancellation is not to be construed as abandonment or disclaimer of subject matter.

After entry of this *Response*, Claims 1-24 are pending. Applicant respectfully asserts that the pending claims are in condition for allowance and respectfully requests reconsideration of the claims in light of the following remarks.

I. The Pending Claims Are Patentable In Accordance With 35 U.S.C. § 103

In the 15 November 2007 *Office Action*, all pending claims are rejected under 35 U.S.C. § 103(a). More specifically: (a) Claims 1, 8-10, and 17-18 are rejected based on a combination of U.S. Patent Application No. 2003/0041179 to Snead, U.S. Patent No. 6,598,169 to Warwick, and U.S. Patent No. 6,868,450 to Lucovsky; (b) Claims 2-3 are rejected based on a combination of Snead, Warwick, Lucovsky, and U.S. Patent Application No. 2003/0078898 to Nakamura; and (c) Claims 4-7, 11-16, and 19-24 are rejected based on Snead, Warwick, Lucovsky, and U.S. Patent No. 6,349,335 to Jenney. Applicant respectfully submits that the currently pending claims are patentable over the cited combination.

Applicant's pending invention is generally directed to a connection manager of a communication device. According to some embodiments, a connection manager registers with a device driver associated with a network interface. The network interface may monitor a communication device for network access data from another party connection manager. After detecting network access data, the device driver may notify the connection manager. Depending on one or more policies, or user input received from a user interface, the connection manager may unregister with the device driver, disable the third party connection manager, or notify the user via the user interface that manual intervention may be required.

Applicant respectfully asserts that the cited references, collectively or individually, fail to teach or disclose such features. The cited references fail to disclose a connection manager as described by the *Specification* and recited by the claims, and a driver adapted to control a *network interface device* and monitor network access data. Instead the cited references, like Snead, teach a storage device, and drivers adapted to control other devices, such as storage devices. The combination of the cited references fails to disclose each and every element of the present invention. In light of these reasons, and those provided below, Applicant believes that all claims are allowable and respectfully requests the Examiner to reconsider and withdraw the rejections.

II. The Cited Combinations Fail To Support A *Prima Facie* Case Of Obviousness

The Examiner uses a combination of Snead, Warwick, and Lucovsky to reject Applicant's independent claims, Claims 1, 9, and 17. The Examiner asserts that Snead teaches all claimed features of Claims 1, 9, and 17 except for Applicant's claimed "register with the driver" and "network access a network interface card." In an attempt to cure Snead's acknowledged deficiency, the Examiner asserts that Warwick teaches "register with the driver," and Lucovsky teaches "network access a network interface card." Finally, the Examiner states that it would have been obvious to modify Snead with Warwick and Lucovsky because the modifications provide "features of compliant hardware which can be exposed to user mode applications without the need to develop private kernel mode drivers for each of several user mode applications" and provide "the system to restrict access of one computer to one or a set of network interface card."

MPEP § 2143 mandates and the USPTO's obviousness examination guidelines reemphasize that a *prima facie* case of obviousness must include specific factual findings. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success that the claimed invention would result from the reference combination. Lastly, the references, when combined, must teach or suggest all the claimed features as a whole as expressly required by 35 U.S.C. § 103. *See* MPEP § 2142 & § 2143.

The above specific factual findings must be spelled out by the Examiner and must be made explicit in a non-conclusory, well reasoned fashion to facilitate review and prosecution efforts. As

stated the USPTO's obviousness examination guidelines, rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. "Monday morning quarterbacking" is improper. *Orthopedic Equipment Co. Inc. v. United States*, 702 F.2d 1005, 1012 (Fed. Cir. 1983). Here, the currently pending claims are patentable over the cited references for at least several reasons.

A. Rejections Based on Snead, Warwick, and Lucovsky

Claims 1, 8-10, and 17-18 are patentable over Snead, Warwick, and Lucovsky. The Snead-Warwick-Lucovsky combination fails to teach or fairly suggest each and every claimed feature in Applicant's pending claims. For example, the combination does not teach or disclose a connection manager feature as claimed by Claims 1, 9, and 17, and a driver feature adapted to control a *network interface device* and monitor network access data.

It is asserted that Snead discloses an "interface device," and more specifically, that the storage device taught in Snead is equivalent to the "interface device" recited in Claim 1.

Applicant notes that amended Claims 1, 9, and 17 recite not an interface device, but "a driver adapted to control a *network* interface device and monitor network access data." Storage device is generally a term of art referring to devices for storing data. As Snead discusses, storage devices include such devices as tape drives, zip drives, and optical disk drives (Snead ¶ 2, lines 4-6). Snead's storage device is not the network interface device recited by amended Claim 1, and therefore, Snead does not teach a driver adapted to control a network interface device and monitor network access data.

It is also asserted that Snead's library manager is a connection manager because it enables multiple client applications to share one or more removable storage devices. Applicant clarifies Claims 1, 9, and 17 to recite that the first connection manager "facilitates connecting to wireless networks." Support for this clarification can be found at least at page 1, lines 11-13 of the originally-filed *Specification*. Because Snead's library manager does not manage connections between wireless devices, Snead's library manager is not the same as the first connection manager of amended Claim 1. Further, none of the cited references teaches a connection manager as recited by amended Claim 1.

Regarding the Examiner's conclusory statement for combining Snead, Warwick, and Lucovsky, this alleged motivation is a clear example of improper 20-20 hindsight. The alleged motivation to combine Warwick with Snead to provide "features of compliant hardware which can be exposed to user mode applications without the need to develop private kernel mode drivers for each of several user mode applications" and the motivation to combine Lucovsky with Snead to provide "the system to restrict access of one computer to one or a set of network interface card" are both unrelated to Applicant's claimed invention and have nothing to do with the connection manager feature according to Applicant's claims. Applicant also respectfully asserts that these alleged motivations would not have led one of ordinary skill in the art to combine Snead, Warwick, and Lucovsky to arrive at Applicant's currently claimed invention. As such, Claims 1, 9, and 17 are patentable over the cited combination for at least these reasons.

Finally, the Examiner provides no reasonable expectation of success that modifying Snead as the Examiner has with Warwick and Lucovsky would result in Applicant's claimed invention. The *Office Action* lacks any specific reference, much less any expectation of reasonable success. MPEP § 2143 specifically requires such a reasonable expectation of success for a proper obviousness rejection.

Accordingly, for at least these reasons, a *prima facie* case of obviousness has not been set forth as required by MPEP § 2143. Applicant, therefore, respectfully Claims 1, 9, and 17 and their dependent claims are allowable over the cited combination. Withdrawal of the § 103 rejection is respectfully requested.

B. Rejections Based on Snead, Warwick, Lucovsky, and Nakamura

Claims 2-3 are rejected based on a combination of Snead, Warwick, Lucovsky, and Nakamura. The Examiner asserts that Nakamura discloses "a user interface adapted to receive notification data from the first connection manager, receive user input from a user, and provide the user input to the first connection manager." Applicant must assume, although the Examiner has not expressly stated, that the Examiner equates Nakamura's unit charge with the user interface of Claims 2-3. Nakamura, however, does not disclose the unit charge, which the Examiner appears to equate to a user interface, receiving input from a user. Nakamura discloses user input through use of a communication circuit (Nakamura ¶ 108, lines 1-8), but does not

disclose user input to a unit charge. Further, Nakamura does not disclose a user interface providing such user input to a connection manager, as Applicant claims.

Finally, the Examiner provides no reasonable expectation of success that modifying Snead as the Examiner has with Warwick, Lucovsky, and Nakamura would result in Applicant's claimed invention. The *Office Action* lacks any specific reference, much less any expectation of reasonable success. MPEP § 2143 specifically requires such a reasonable expectation of success for a proper obviousness rejection. As such, Applicant respectfully submits that Claims 2-3 are patentable over the cited combination for at least these reasons.

C. Rejections Based on Snead, Warwick, Lucovsky, and Jenney

Claims 4-7, 11-16, and 19-24 are patentable over Snead, Warwick, Lucovsky, and Jenney. With respect to Claims 4-5 and 11, the Examiner asserts that Jenney discloses "the first connection manager is adapted to unregister with the driver and the driver is further adapted to stop monitoring network access data." Jenney discloses a computer being removed from the list of computers being monitored by a Server Monitor application (Jenney, col. 8, lines 39-50 and 32-37). The Examiner equates Jenney's computer to Applicant's claimed connection manager, but in doing so, the Examiner fails to fully appreciate Applicant's claimed invention. As Applicant's *Specification* discusses, Applicant's "[c]onnection managers may be found *incorporated* in computer operating systems or may be installed by information technology staff for remote access" (*Specification* page 1, lines 18-19). To equate the connection manager to an entire computer is contrary to Applicant's *Specification*.

With respect to Claim 6, Jenney discloses that a user of the computer can request that the Server Monitor application stop monitoring the computer (Jenney, col. 9, lines 61-67). Once again, the Examiner impermissibly equates the connection manager to Jenney's computer.

With respect to Claims 7 and 12, the Examiner points to column 8, lines 41-46 of Jenney for the assertion that Jenney discloses the first connection manager further adapted to disable the second connection manager. Contrary to the Examiner's assertion, Jenney discloses a computer being removed from the list of computers monitored by the Server Monitor application upon the request of a user. As discussed above, Applicant believes that the Examiner impermissibly equates Jenney's computer to a second connection manager, and also equates a human user to the first connection manager. This interpretation is contrary to the *Specification*, which states that

“[c]onnection managers may be found *incorporated* in computer operating systems or may be installed by information technology staff for remote access” (*Specification* page 1, lines 18-19). Simply stated, to equate the first connection manager to a human user is contrary to the plain meaning of the *Specification*.

With respect to Claims 13-15, the Examiner asserts that these claims are apparatus claims of Claims 3-4, and therefore, rejects Claims 13-15 on the same grounds on which Claims 3-4 are rejected. Without conceding that Claims 13-15 are in fact apparatus claims of Claims 3-4, Applicant asserts that Claims 13-15 are allowable over the cited combination for at least the reasons given above to show that Claims 3-4 are allowable over the cited combination.

With respect to Claim 16, the Examiner points to column 8, lines 39-47 and column 7, lines 59-61 of Jenney for the assertion that Jenney discloses “if the second connection manager is registered with the driver then unregistering the second connection manager with the driver associated with the device, wherein the unregistering of the second connection manager is prior to registering the first connection manager with the driver associated with the device.” In the cited lines, Jenney discloses a computer being removed from the list of computers monitored by the Server Monitor application upon the request of a user, and a user selectively suspending and restarting the monitoring process. As before, the Examiner impermissibly equates Jenney’s computer to a second connection manager and a human user to the first connection manager.

With respect to Claims 19-24, the Examiner asserts that these claims are apparatus claims of Claims 11-16, and therefore, rejects Claims 19-24 on the same grounds on which Claims 11-16 are rejected. In response, Applicant respectfully asserts that Claims 19-24 are allowable over the cited combination for at least the reasons given above to show that Claims 11-24 are allowable over the cited combination.

Finally, the Examiner provides no reasonable expectation of success that modifying Snead as the Examiner has with Warwick, Lucovsky, and Jenney would result in Applicant’s claimed invention. The *Office Action* lacks any specific reference, much less any expectation of reasonable success. MPEP § 2143 specifically requires such a reasonable expectation of success for a proper obviousness rejection. As such, Applicant respectfully submits that Claims 4-7, 11-16, and 19-24 are patentably distinct over the cited references.

III. Fees

Applicant files this *Response* within two months of the 15 November 2007 *Office Action* and with no new claims. Thus, no fees are believed due. But the Commissioner is authorized to charge any required fees to Deposit Account No. 20-1507 for full acceptance of this submission.

IV. Conclusion

This *Response* is believed to be a complete response to the 15 November 2007 *Office Action*. Applicant respectfully asserts that the pending claims are in condition for allowance and respectfully requests passing of this case in due course of patent office business. If the Examiner believes there are other issues that can be resolved by a telephone interview, or there are any informalities remaining in the application which may be corrected by an Examiner's amendment, a telephone call to Hunter Yancey at (404) 885-3696 is respectfully requested.

Respectfully submitted,
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